

BEFORE THE
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
DOCKET NO. 2014-69 -S

IN RE:)	
)	
Application of Palmetto Wastewater)	
Reclamation LLC d/b/a Alpine)	
Utilities and d/b/a Woodland Utilities for)	
adjustment of rates and)	
charges for, and the modification of)	ANSWER IN OPPOSITION TO
certain terms and conditions related to,)	PETITION TO INTERVENE
the provision of sewer service.)	
_____)	

Applicant, Palmetto Wastewater Reclamation LLC (“PWR” or “Company”), pursuant to 10 S.C. Code Regs. 103-826 (2012), by and through its undersigned counsel, submits the within Answer in Opposition and Objection to the Petition to Intervene (“Petition”) of Arch Enterprises, LLC, d/b/a McDonalds (“Petitioner”) dated April 24, 2014, in the above-captioned matter. In that regard, PWR would respectfully show unto this Honorable Commission as follows:

1. Applicant answers and objects to the Petition on the ground that the Petitioner has no standing to intervene in the matter because it is not a “customer” of the Company as defined in 10 S.C. Code Regs. 103-502.2 (2012). To the contrary, Petitioner is not being **supplied** service by PWR, but is unlawfully receiving the Company’s service without having complied with the Commission’s regulations pertaining to the establishment of a service account and has

been doing so since July of 2013 without having paid for same.¹ The Petitioners therefore lack standing and any right or interest to intervene in the matter as required by 10 S.C. Code Regs. 103-825A.3(a) (2012).

2. Petitioner's contention that it is "directly affected by this proposed rate increase" is patently incorrect for two reasons. First, as noted above, Petitioner is not a customer of the Company. Moreover, Petitioner is not currently paying, and in fact has never paid, PWR for the service that Petitioner is unlawfully taking from PWR. Unless and until such time as Petitioner pays for service that PWR agrees to supply to it, Petitioner cannot be affected by any rate increase.

3. PWR denies that the requested rate relief (a) is "arbitrary and capricious" or (b) that it "will likely result in an exorbitant rate increase as applied to the Petitioner." As to the former assertion, the reference is inapt as it does not provide any basis for opposing a proposed rate increase, but only constitutes a standard for granting judicial review of an order of this Commission setting rates (which has obviously not yet occurred). *Cf.* S.C. Code Ann. §1-23-380(5)(f). As to the latter assertion, Petitioner cannot experience any increase in rates when it is paying none. *Cf.* PWR Motion to Dismiss, Docket No. 2014-153-S. Moreover, the increase proposed for customers served by the system to which Petitioner is connected (again, without PWR's consent) is 22% per single family equivalent based upon the Company's previously approved rates. However, if Petitioner were a current customer of the Company, there would be

¹ The circumstances involving Petitioner's unlawful receipt of the Company's service are fully set out in the Company's April 11, 2014, Motion to Dismiss Petitioner's complaint in Docket No. 2014-153-S which is pending before the Commission. The Company requests that the Commission take notice of its records and files with respect to the content of said motion to dismiss, which PWR incorporates herein by this reference. As noted therein, Petitioner has never paid for service, notwithstanding its use of same since July of 2013, and has filed a complaint to prevent disconnection from PWR's system. By that complaint, Petitioner seeks to have this Commission order PWR to establish an account for service at rates different than those previously approved for PWR and to accept payment for services already used at such a rate. As noted in its Motion to Dismiss, the Company contends that the relief requested by Petitioner in its complaint is not allowable as a matter of law.

a **decrease** in monthly charges to Petitioner in view of the Company's proposal to adjust equivalency factors for fast food restaurants with drive-thru facilities. *See* Application, March 18, 2014, at 3, n.2. In fact, if the rate schedule proposed by the Company is approved, monthly charges for service at the location occupied by Petitioner would actually decrease by approximately 64%.²

4. The Company submits that if there was ever a circumstance justifying the denial of a petition to intervene, it has been presented in this case. Petitioner seeks to have all of the benefits accorded to a bona fide customer of the utility without having satisfied any of the obligations of a customer of the utility. Petitioner seeks to have PWR expend time and money defending against an intervention which, if granted, would oppose a decrease in charges to Petitioner if it were a customer. The expenditure of resources required to address Petitioner's proposed opposition to the instant rate case would necessarily be passed on to customers in rates. PWR submits that the proposed intervention is reflective of a pattern of conduct by Petitioner in which it improperly seeks to employ Commission processes that should be reserved to customers. PWR submits that such conduct should not be countenanced and that denial of the petition to intervene would be in the public interest.

5. To the extent the Petition alleges any other or further matter, same is denied and strict proof thereof is demanded.

² See PWR Motion to Dismiss, Exhibit A, 4/3/14 electronic mail message to counsel for Petitioner demonstrating that current monthly charges for the Petitioner's premises if it were a customer would be approximately \$3,250 based on current single family equivalents under approved rate schedule. If the rate schedule proposed in the application (see n.2 thereof) were applied to said premises, the monthly charges would be approximately \$1,170 based on 32.975 SFEs.

WHEREFORE, having fully set forth its Answer and Objection, the Company requests that the Petition to Intervene be denied and that such other and further relief be granted by the Commission to the Company as is just and proper.

/s/ John M. S. Hoefer

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This 25th day of April, 2014